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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/217,878	12/21/1998	GREGORY SCOTT DUNCAN	VTN-415	3825

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EXAMINER

SIPOS, JOHN

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 12/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

Office Action Summary

Application No.

09/217,878

Applicant(s)

DUNCAN ET AL.

Examiner

John Sipos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/22/02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Applicant's arguments have been considered but are not persuasive and therefore the rejections made in the last Office action are repeated.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

Claims 26-30 and 36 are rejected under **35 U.S.C.103(a)** as being unpatentable over the patent to Kuethe (5,155,969 – cited by applicant). The Kuethe device comprises a plurality of carriers (16) carrying containers (25), a plurality of vertically moveable lifts (68,70,72 and 74), a plurality of platens (52,54,56,58) one on each of the lifts, a plurality of mandrels (44,46,48,50) above the platens and a lidstock maneuvering system (30+) for placing a lidstock sheet between the containers on the carriers and the mandrels which seal the lidstock to the containers to form a set of packages. The packages are subsequently separated after leaving the machine. The main difference between the machine of Kuethe and the claimed invention is the number of containers on each platen. The Kuethe devices uses two containers 25 and 26 on each platen but it would have been obvious to one of ordinary skilled in the art to use one or any number of containers since the number is merely a matter of design consideration and duplication of parts. Furthermore, the number of containers being operated on is merely a matter of experimentation to develop the optimum and most efficient machine operation. Regarding the number of mandrels used, it is well known in the art to use a single mandrel to seal a plurality of containers if individual control of the sealing operation is not necessary or desired. It therefore would have been obvious to one of ordinary skilled in the art to use a single mandrel in the Kuethe machine to seal a plurality of containers. The specific product being packages is given little patentable significance in apparatus claims since it does not affect the structure of the device.

Claims 31-35 are rejected under **35 U.S.C.103(a)** as being unpatentable over the patent to Kuethe in view of Edwards (5,565,059 – cited by applicant) or Edwards (5,528,878). The patent to Kuethe does not specifically teach the inspection of the packages. The patents to Edwards shows a contact lens packaging system wherein an inspection system verifies the proper alignment of the printed matter on the lidstock within the machine (see column 8, lines 30-36 and column 10, line 1, respectively). It would have been obvious to one skilled in the art to provide the packaging a system of Kuethe with an inspection system such as disclosed by Edwards to ensure proper registration of the lidstock with the containers.

Claims 26-36 are rejected under **35 U.S.C.103(a)** as being unpatentable over the patent to Ciba Geigy(WO 98/32587) – cited by applicant). The Ciba device comprises a plurality of carriers (1) carrying containers (3), a plurality of vertically moveable lifts (61), a plurality of platens (top portions of 61) one on each of the lifts, a plurality of mandrels (70) above the platens and a lidstock maneuvering system for placing a lidstock sheet between the containers on the carriers and the mandrels which seal the lidstock to the containers to form a set of packages. The main difference between the machine of Ciba and the claimed invention is the number of containers on each platen. The Ciba devices uses more than one container on each platen but it would have been obvious to one of ordinary skilled in the art to use one or any number of containers since the number is merely a matter of design consideration and duplication of parts. Furthermore, the number of containers being operated on is merely a matter of experimentation to develop the optimum and most efficient machine operation Regarding the number of mandrels used, it is well known in the art to use a single mandrel to seal a plurality of containers if individual control of the sealing operation is not necessary or desired. It therefore would have

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been obvious to one of ordinary skilled in the art to use a single mandrel in the Ciba machine to seal a plurality of containers.

Claims 26-28,35 and 36 are rejected under **35 U.S.C. 102(b)** as being clearly anticipated by Giovannone (5,379,572) in view of Kuethe. The patent to Giovannone shows a packaging machine which comprises a plurality of carriers (read on the portion of the conveyor holding/pushing each blister), a plurality of vertically moveable lifts 22,32,42, a plurality of platens 26,36,46 on the lifts, a plurality of mandrels 20,30,40 above the platens and a lidstock maneuvering system 16 for placing lidstock between the blisters on the carriers and the mandrels which seal the lidstock to the blisters. It would have been obvious to one of ordinary skilled in the art to provide the lidstock of Giovannone in a continuous sheet form that is subsequently cut to any size as shown by Kuethe to ease the positioning of the lidstock in the sealing mechanism. The specific product being packages is given little patentable significance in apparatus claims since it does not affect the structure of the device.

Claims 29-34 are rejected under **35 U.S.C.103(a)** as being unpatentable over the patent to Giovannone in view of Kuethe (as applied above) and further in view of Edwards (5,565,059 – cited by applicant) or Edwards (5,528,878). The patent to Kuethe does not specifically teach the inspection of the packages. The patents to Edwards shows a contact lens packaging system wherein an inspection system verifies the proper alignment of the printed matter on the lidstock within the machine (see column 8, lines 30-36 and column 10, line 1, respectively). It would have been obvious to one skilled in the art to provide the packaging a system of Kuethe with an inspection system such as disclosed by Edwards to ensure proper registration of the lidstock with the containers.

RESPONSE TO APPLICANT'S ARGUMENTS

Applicant's arguments with respect to the claims have been considered but are not persuasive.

Regarding the rejections based on the Kuethe and Ciba references, the main difference is the number of mandrels being used to seal the plurality of containers. Applicants argue that they "claim a single mandrel to seal a plurality of containers, and Applicants' invention provides individual control of the sealing operation". It should first be noted that the control of the mandrel is not recited in the claims. Secondly, if a single mandrel seals a plurality of containers how can that be interpreted as being "individually" controlled. The Examiner maintains that to simplify the structure, operation and the controls of the device it would have been obvious to one of ordinary skill in the art to reduce the number of mandrels of Kuethe or Ciba to a single one if individual control of the sealing operation is not necessary.

Regarding the rejection based on the Giovannone reference, contrary to Applicants' arguments the claimed carriers are read on the conveyor portions holding the containers since they function and are used as recited in the claims. Similarly, the platens of Giovannone are "located adjacent to one another" as claimed even if they are spaced apart. (Note that Applicants' platens 16 in Figure 2 are also spaced apart). The argument that Giovannone does not show a single lidstock maneuvering mechanism is not convincing since that feature is taught by the secondary reference to Kuethe. Although Giovannone may not teach the application of such a single lidstock to a plurality of containers, the patent to Kuethe suggests such a use to enable the cutting of the containers to any number desired.

Also note the previously cited patent to Edwards (5626000) that shows in Figure 10 a single mandrel for multiple containers and Shannon (5524419) shows the sealing of a plurality of contact lens containers with a continuous sheet to form a group of closed containers that are subsequently separated.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 305-3579**.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter Vo, can be reached at (703) 308-1789.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.


John Sipos
Primary Examiner
Art Unit 3721

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